

## REMARKS

In the Office Action dated December 16, 2003, all pending claims 3 through 14 stand rejected. Claims 3-8, 11, 13, and 14 are rejected under 35 U.S.C. § 103(a) as unpatentable over the Williams patent. Claims 9, 10, and 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by the Williams patent. Finally, claims 3-14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the disclosed conventional closure in view of Williams.

Applicant appreciates the Examiner's helpfulness during the telephonic interview conducted April 13, 2004, at 2pm Eastern Daylight Time by and between Examiner and the undersigned attorney. Based upon the interview, and the present amendment, Applicant believes that a conclusion has been reached regarding the applicability of the Williams patent.

In anticipation of the Examiner's request for an interview summary, and in accordance with MPEP § 713.04, the following is a written record of the telephonic interview of April 13, 2004.

### **Summary of Interview:**

The Examiner and the Applicants' attorney discussed, in the aggregate, independent claims 3, 9, 12, 13, and 14 of the present application with respect to the disclosure of U.S. Patent No. 1,842,226 (hereinafter referred to as the "Williams patent"). Applicants' attorney reiterated that the Williams patent does not discuss the presence of

part line flash or surface mismatch on the annular side wall portion beneath the cap portion of the closure and/or on the closure sealing surface of the closure. As such, it is clear that there is no support in the Williams patent to argue that flash or mismatch is an inherent characteristic of the closure member. There is likewise no discussion of any manufacturing techniques that would clearly support the presumption that flash or mismatch would occur during manufacture. Furthermore, even if flash or mismatch were to normally occur during manufacture of the Williams closure member, a predicate that cannot be presumed, there is no clear support that such flash or mismatch would occur across the sealing surface and/or on the annular side wall portion beneath the cap portion. Therefore, the Williams patent does not disclose, either explicitly or inherently, each an every element as present in independent claims 3, 9, 12, 13, and 14.

However, in an effort to further clarify and distinguish Applicants' claims from the Williams patent, Applicants' attorney agreed to amend the independent claims to clarify that the claimed closure is a plastic closure. The Examiner agreed that this limitation distinguished Applicants' claims over the Williams patent.

Therefore, in light of the interview detailed above and the amendments presented herein, Applicants respectfully request that the Examiner withdraw the outstanding §102 and §103 rejections based upon the Williams patent and indicate all claims as allowable. Should the Examiner have any questions or comments regarding this case, the Examiner is encouraged to call undersigned counsel at her convenience.

If any additional fees are due, please charge such required fees to our Deposit  
Account No. 13-0265.

Respectfully submitted,

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